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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/326,646	06/07/1999	SHERVIN PISHEVAR	55741.000003	4448

7590 12/04/2002
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EXAMINER
KYLE, CHARLES R

ART UNIT	PAPER NUMBER
3624	

DATE MAILED: 12/04/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/326,646

Applicant(s)

PISHEVAR ET AL.

Examiner

Charles R Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-19 and 32-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 20-31 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 37 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It refers to one additional purchase criteria, but its independent claim recites no first criteria.

Claim 41 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It recites the phrase "means for implemented a self organizing community". It appears that the word "implementing" is intended.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 10-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. They recite no technical element such as a computer and are therefore not within the technological arts. Processing such as that claimed could be done with simple paper-based office procedures.

- It does not provide physical information

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 2-3, 6-10, 12-15, 17-19, 36-37 and 40-41 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by *Pallakoff*.

Concerning Claim 2, *Pallakoff* discloses the invention as claimed including in a system for collective procurement management the elements of:

- a) at least one purchaser terminal (Fig.1 , elements 14a-14x);
- b) at least one supplier terminal (Fig. 1, eles. 12e-12x);

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c) purchase request processing means for accepting a plurality of purchase requests from a plurality of potential purchasers through said at least one purchaser terminal (Fig. 1, ele 13: Col. 3, lines 11-17);

d) purchase request grouping means for selectively grouping said plurality of purchase requests to create a collective procurement order (Fig. 3, ele. 28; Col. 4, lines 42-52; and

e) collective procurement fulfillment means for effecting said collective procurement order such that said plurality of purchase requests are fulfilled with respect to each of said potential purchasers (Fig 3, 313. 37, fig. 7, ele. 74; Col. 8, lines 54-62).

With respect to Claim 3, *Pallakoff* discloses at least one product or service available for purchase through a collective procurement management system at Fig. 1, ele. 13, “Sellers’ Offers” and Col. 3, lines 9-17.

With respect to Claims 6-8, *Pallakoff* discloses threshold conditions of a minimum number of purchasers and minimum product quantity at Col. 11, lines 25-27.

With respect to Claim 9, *Pallakoff* discloses minimum total order price at Col. 9, lines 5-17 and Fig. 8, ele. 82.

With respect to Claim 10, *Pallakoff* discloses the invention as claimed, including in a method for fulfilling a collective procurement order between at least one supplier and a plurality of purchasers comprising the steps of:

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- a) accepting a plurality of purchase requests from said plurality of purchasers (Fig. 6; Col. 7, line 6 to Col. 8, line 21);
- b) accepting at least one supply commitment from said at least one supplier Fig 4; Col. 5, line 46 to Col. 7, line 5);
- c) selectively grouping said plurality of purchase requests to create a collective procurement order (Col. 2, lines 28-29); and
- d) fulfilling said collective procurement order between said at least one supplier and said plurality of purchasers (Col. 8, lines 54-62).

With respect to Claim 12, see the discussions of Claims 10 and 5 above.

With respect to Claim 13, see the discussions of Claims 10 and 8 above.

With respect to Claim 14, see the discussions of Claims 12 and 7 above.

With respect to Claim 15, see the discussions of Claims 12 and 9 above.

With respect to Claim 17, *Pallakoff* discloses multiple fulfillment levels at multiple prices at Col. 3, lines 44-55.

With respect to Claim 18, it is inherent in *Pallakoff* that specification of the number of units desired by a buyer specifies the price the buyer is willing to pay. See *Pallakoff* at Col. 8, lines 5-21.

Concerning Claim 19, *Pallakoff* discloses additional terms at Fig. 6, ele. 65.

With respect to Claim 36, see the discussion of Claim 2 above and *Pallakoff* further discloses an internet browser application for purchase requests using a button at Col. 3, line 28 to Col. 4, line 19; Col. 10, lines 18-34; Fig. 2.

With respect to Claim 37, *Pallakoff* discloses purchase criteria of quantity of price and quantity.

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With respect to Claim 40, *Pallakoff* discloses indication of remaining time at Col. 4, lines 37-41.

With respect to Claim 41, *Pallakoff* discloses self-organizing communities at Fig. 2, ele. 28.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Pallakoff* in view of *Shkedy*.

With respect to Claim 11, see the discussion of Claim 32 below

With respect to Claim 32, *Pallakoff* discloses the invention substantially as claimed including in a collective procurement management system, the elements of:

- a) at least one purchaser terminal (Fig. 1, elements 14a-14x);
- b) at least one supplier terminal (Fig. 1, ele. 12e-12x);
- c) supply offer processing means for accepting a plurality of supply offers from a plurality of potential suppliers through said at least one supplier terminal (Fig. 1, ele 13: Col. 3, lines 11-17); and
- e) collective order fulfillment means for effecting said collective supply offer such that said plurality of supply offers are fulfilled with respect to one or more potential purchasers (Col. 8, lines 54-62).

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Pallakoff does not specifically disclose grouping of supply offerings to create a collective supply offering. *Shkedy* discloses this concept at Col. 3, lines 29-31. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the multiple supplier fulfillment of *Shkedy* in the system of *Pallakoff* because this would have provided for fulfillment of orders which a single supplier could not supply.

Concerning Claims 33-35, see the discussions of Claims 32 and 3-5 above.

Claims 4, 5, 16, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Pallakoff*.

Concerning Claims 4 and 5, *Pallakoff* discloses grouping of product data and suggests grouping purchase requests in a hierarchy. It would have been obvious to provide such grouping because this would have allowed for ready summarization and order fulfillment for products sought by purchasers. Such organization was old and well-known in the art of auctions at the time of the invention.

Concerning Claim 16, it would have been obvious to have provided the buyer with multiple level quantity/pricing combinations for because of the additional purchasing flexibility

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accorded the system. This with the quantity/pricing combinations of the seller disclosed would have increased the number of trades because of the additional combinations possible.

With respect to Claim 38, *Pallakoff* discloses notification of pending purchase groups at Col. 4, lines 12-19. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a profile to direct such advertising because “targeted advertising” by profiling was a well-known and effective way to maximize notification effectiveness for products.

With respect to Claim 39, *Pallakoff* discloses aggregate demand presentation at Fig.

2. In the trivial case in which each buyer requests 1 item, the claim limitation is met.

Additionally, indication of the number of buyers would be obvious to indicate a level of market activity. Such reporting was old and well-known at the time of the invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R Kyle whose telephone number is (703) 305-4458. The examiner can normally be reached on M-F 6:00-2:30.j

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



crk

November 20, 2002



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